

GLYPHOSATE AND CALIFORNIA PROPOSITION 65

BACKGROUND:

- Proposition 65 (“Prop 65”) is a California law requiring businesses to provide warnings to Californians about significant exposure to chemicals that cause cancer, birth defects or other reproductive harm. Warnings can be placed on products or displayed at the point of sale. It also requires California to publish a list of these chemicals at least yearly.
- Historically, registrants of pesticide products have, at times, chosen to comply with Prop 65 by placing these warnings on their EPA-approved pesticide labels.

KEY POINTS:

- While the International Agency for Research on Cancer (IARC) classified glyphosate as “probably carcinogenic to humans,” EPA disagrees with IARC’s assessment. EPA scientists independently evaluated available data to reexamine the carcinogenic potential of glyphosate and concluded that glyphosate is “not likely to be carcinogenic to humans.” EPA considered a more extensive dataset than IARC, including studies submitted to support registration of glyphosate and studies identified by EPA in the open literature.
- EPA’s classification is consistent with other international regulatory authorities, including the Canadian Pest Management Regulatory Authority, Australian Pesticide and Veterinary Medicines Authority, European Food Safety Authority, European Chemicals Agency, German Federal Institute for Occupational Safety and Health, New Zealand Environmental Protection Authority, and the Food Safety Commission of Japan.
- A federal judge recently issued a preliminary injunction against California enforcing its warning requirement for products containing glyphosate because he found the warning to be misleading. False or misleading statements on pesticide labeling make a pesticide product misbranded and therefore illegal to sell and distribute.
- In registering pesticides, EPA must determine that the labeling complies with the requirements of Federal Food, Drug, and Cosmetic Act (FIFRA) including that the product not be misbranded.
- Given EPA’s determination that glyphosate is “not likely to be carcinogenic to humans,” EPA considers the Prop 65 warning language for glyphosate to be a false and misleading statement. As such, pesticide products bearing the Prop 65 warning statement due to the presence of glyphosate could be considered misbranded under FIFRA.
- By letter dated August 8, 2019, EPA informed glyphosate registrants that it will no longer approve labeling that includes the Prop 65 warning for glyphosate-containing products and asked registrants of glyphosate products currently bearing Prop 65 warning language to submit draft amended labeling that removes this language within 90 days.

TALKING POINTS:

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Ex. 5 Deliberative Process (DP)